

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 96-24

March 26, 1996

TO: All Regional Directors, Officers-in-Charge  
and Resident Officers

FROM: B. Allan Benson  
Acting Associate General Counsel

SUBJECT: Administrative Problems Related to Trials

Set forth below are various issues which have recently been brought to our attention by the Division of Judges. Most of these issues were previously discussed in Memorandum OM 95-29, dated March 31, 1995, but are apparently not being consistently followed. All of these matters have an impact on the ability of administrative law judges to most efficiently handle trials and, with their declining numbers, each has become more urgent.

1. Notification of Trial Cancellation: Regions should notify the front office of the Division of Judges as soon as possible that a case is being taken off the trial calendar. Frequently, the news of a settlement, postponement, etc., is passed informally to a Chief or another ALJ, but in the interest of uniformity and certainty, a system has been instituted under which cases are not officially removed from its docket until a call is made from the Regions to one of the clericals in the Division of Judges' front office. Only when this is done is the ALJ relieved of the assignment and, perhaps, another assignment made to him/her. In view of their decreasing numbers, it will help them immensely if the Regions gave them prompt notification of cancellations.

2. Scheduling with Judges in Mind: In some instances Regions schedule a number of short cases to begin on the same day or within two consecutive days, when there is time available in the week to separate them so that a single judge could handle two or more of them. If settlements do not alter the situation, this would necessitate assigning two or more judges to handle cases which one judge might have covered. As their numbers decline, they may not have enough judges to cover all the cases and may need to postpone some that otherwise could have been heard. A related problem which can result in unnecessary travel or

unnecessary down time on the road occurs when cases go off the schedule and leave them with 2 one-day cases in a Region, one on Monday and one on Thursday or Friday. Regions should attempt to reschedule one of them so that they can be heard consecutively.

3. Case Estimates: The estimates as to case length that the Division of Judges receive from the Regions often turn out to be inaccurate. Estimating the duration of a case is obviously problematic. To the maximum extent practicable, however, Regions should strive for accurate estimates. One apparent problem is that as changes, such as consolidations and amendments, occur, the estimates are not updated. ALJ assignments are usually based upon a consideration of the number and length of cases already in the ALJ's backlog, and a Region's estimate of 2-3 days of hearing which will actually be more likely 5-6 days might well affect the assignment. While the ALJ should get a revised estimate from a conference call, (1) sometimes such calls cannot, for one reason or another, be made; and (2) by the time the ALJ learns of the change, it may be too late to change the assignment. It would be very useful to have the trial counsel confer with the respondent a few weeks prior to the hearing and arrive at a current estimate to be given to the Division of Judges.

4. Scheduling on Monday: In many cases, Judges would not have to travel on Sunday if Monday cases were set for 1 p.m. Regions usually schedule Monday cases for 11 a.m. In many instances, however, airline schedules do not permit judges to leave on Monday and arrive on time. Setting Monday cases at 1 p.m. would result in a morning trial-time loss of an hour (taking lunch into account), which could often be made up at the end of the day.

5. Weekend Emergencies: There might be occasions on which the Regions would like to get in touch with the Division of Judges, and vice versa, over the weekend. To facilitate such contacts, set forth below are the relevant home telephone numbers. Please furnish the appropriate ALJ office with home numbers for the Regional Director and Regional Attorney.

D.C.

Judge Giannasi (301) 229-0136

Judge Ries (202) 363-5851

Judge Davidson (301) 652-5655

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Atlanta

Judge Cates (404) 939-2753

New York

Judge Biblowitz (914) 967-489

San Francisco

Judge Robbins (415) 387-5596

6. Forwarding Pleadings: The Division of Judges frequently finds that its case files do not contain all of the pleadings which have issued. Please ensure that all formal documents are sent to the Case Records Unit as they are issued or received.

7. Preparation of Backpay Figures: On occasion, Regions have not computed, in preparation for settlement conference calls, the amount of backpay owed the alleged discriminatees. The lack of backpay information makes serious settlement discussions impossible. Accordingly, please ensure that the backpay figures are computed prior to any settlement conferences.

Any questions concerning this memorandum should be addressed to your Assistant General Counsel, or to me.

B.A.B.

cc: NLRBU